unpatentable over claims 1, 18, and 35 of Bleizeffer et al. (U.S.P. 6,539,371 B1). Applicant submits the following in traversal of the rejections.

Rejection of claims 1-13 under § 112, second paragraph, as being indefinite

The Examiner asserts that the phrase "and apply the user-specified filtering criteria" recited in claim 1 in connection with the "at least one filtering module" is unclear. The Examiner queries, "what element applies the user-specified filtering criteria?" It is respectfully submitted that said "at least one filtering module" is configured to "apply the user-specified filtering criteria."

Claim 1 recites "...at least one filtering module configured to receive one or more user-specified filtering criteria ...and apply the user-specified filtering criteria...". The at least one filtering module is configured to apply the user-specified filtering criteria as particularly pointed out in the claim language. It is respectfully submitted that it would be apparent to one of ordinary skill in the art upon reading the plain language of the claim that the "at least one filtering module" is configured to "apply the user-specified filtering criteria."

Based on the foregoing, Applicant respectfully submits that claim 1 and its dependent claims, meet the requirements of § 112, second paragraph and accordingly the rejection of claims 1-13 should be withdrawn.

Rejection of claims 1, 15, and 28 under the doctrine of obviousness-type double patenting

The Examiner asserts that claims 1, 15, and 28 of the present application are unpatentable over claims 1, 18 and 35 of U.S.P. 6,539,371 (the '371 patent) under obviousness-type double patenting. The Examiner asserts that although the conflicting claims are not identical, they are not patentably distinct from each other because it is well settled that omission of elements and

their functions is an obvious expedient if the remaining elements perform the same function as before.

Applicant submits that the obviousness-type double patenting rejection is improper because claims 1, 14 and 35 do not merely omit elements and functions of claims 1, 18 and 35 of the '371 patent.

A rejection under non-statutory obviousness-type double patenting is based on the language of the claims. To determine if obviousness-type double patenting applies, a determination must be made as to the difference in scope and content between the patent claim language and the prior art. In addition, a determination must be made regarding the obviousness of the claim to one of ordinary skill in the art. An obviousness-type double patenting rejection is proper only if a claim in the application is merely an obvious variation of an invention claimed in the patent. MPEP 804(II)(B)(1).

Claim 1

Claim 1 of the present invention recites "An apparatus for filtering a plurality of groups of query statements according to *identification data* associated therewith, each group corresponding to *one or more application programs posing queries to a database*....at least one filtering module configured to receive one or more user-specified filtering criteria directed to a subset of the *identification data*...".

In contrast, claim 1 of the '371 patent recites "An apparatus for filtering a set of query statements according to *query explain data* associated therewith, the *query explain data* generated by a database and indicating how the database will execute the query statements...a

filter generation module configured to receive user-specified filtering criteria directed to a subset of the *query explain data for at least one query statement...*".

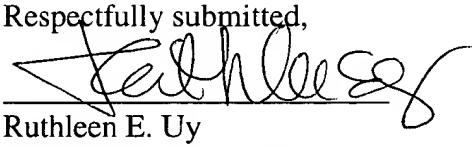
Claim 1 of the present invention requires filtering a plurality of groups of query statements based on *identification data* associated therewith, as opposed to claim 1 of the '371 patent which requires filtering a set of query statements according to *query explain data* associated therewith. It is respectfully submitted that a person of ordinary skill in the art would not understand *identification data* to be *query explain data* or to suggest using *query explain data* since there is no teaching or suggestion that *identification data* explains a query, and vice versa.

Therefore, it would be apparent to one of ordinary skill in the art, that claim 1 of the present invention is patentably distinct from claim 1 of the '371 patent. Consequently, claim 1 and its dependent claims should be deemed patentable. Claims 15 and 28 are not made obvious over claims 18 and 35 of the '371 patent for at least the same reasons. Therefore, claims 15 and 28 and their dependent claims should also be deemed patentable.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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